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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,766	08/06/2003	Vincent Muniere	Q76546	6869
23373 7590 12/05/2008 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER AFSHAR, KAMRAN	
			ART UNIT 2617	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/634,766

**Applicant(s)**

MUNIERE, VINCENT

**Examiner**

KAMRAN AFSHAR

**Art Unit**

2617

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08/27/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2,8-13,16,17,23-28 and 34-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,8-10,12,13,16,17,23-25,28,34-36 and 38-40 is/are rejected.
- 7) ☒ Claim(s) 11,26 and 37 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Final Drawing Review (PTO-849)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed on 08/27/2008 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention i.e. a mobile station uses (See Landais e.g. MS communicating via the network as shown in Fig. 1), in accordance with its requirements, one of different types of packet mode resource requests corresponding to different transfer modes (See Landais e.g. differing requirements, mobile station, EGPRS, Page 2, ¶ [0029]) that the mobile station supports, the different transfer modes (See Landais e.g. two modes, etc., Page 2, ¶ [0032]) including the GPRS and the EGPRS modes. Examiner very kindly directs the Applicant that Landais teaches frankly teaches the mobile station uses, in accordance with its requirements, one of different types of packet mode resource requests corresponding to different transfer modes that the mobile station supports, said different transfer modes including the GPRS (See Landais e.g. GPRS, Page 1, ¶ [0002]) and the EGPRS modes (See Landais e.g. EGPRS. Page 2, ¶ [0029]). Further, the mobile station (See Landais e.g. MS of Fig. 1) using a type of packet set mode resource request (See Landais e.g. packet resource request containing a precise description of the required resource, Page 2, ¶ [0026]) and or in downlink direction (See Landais e.g. downlink, Page 1, ¶ [0025]) corresponding to EGPRS mode (Page 2, GPRS, ¶ [0029], packet mode, two modes, Page 2, ¶ , including cause data specifying signaling data transfer requirements (See Landais e.g. per definition: signaling, mobility management, Page 1, ¶ [0018], one-phase or two-phase access, Page 1, ¶ [0023]). Basically, as discussed above, the MS support both mode of data transfer (I.e. GPRS and EGPRS) and clearly specifies via packet resource request containing a precise description of the required resource, Page 2, ¶ [0026] which is including the cause or reason i.e. signaling and or the mobility management as defined by the dependent claim and the specification. Further more, Landais teaches signal message (inherently) include a paging response (See e.g. the mobile station sends the network a PACKET CHANNEL REQUEST message, as noted at 1, on a common uplink channel (PRACH). The network

then responds with a PACKET UPLINK ASSIGNMENT message, as noted at 2, on a common downlink channel (PAGCH or paging), the latter message indicating directly to the mobile station the resources (PDCH) it has been assigned. The mobile station then uses those resources to transmit data (or RLC data blocks), as noted at 3, in the uplink direction, Page 4, ¶ [0077]).

**Applicant(s) are remained that the Examiner is entitled to give the broadest reasonable interpretation to the language of the claim. The Examiner is not limited to Applicant's definition, which is not specifically set fourth in the claims, *In re Tanaka et al*, 193 USPQ 139, (CCPA) 1977.**

Therefore, the previous rejection is maintained, which is repeated below for the Applicant convenient.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 2, 8-10, 12-13, 16-17, 23-25, 28, 34-36, 38-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Landais (U.S. Pub. No.: 2002/0080758 A1).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art

under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

With respect to claims 2, 16-17, Landais teaches a mobile station and or a mobile network (See Landais e.g. MS and the network of Fig. 1) a method of allocating packet mode resources in a mobile radio system, the method comprising: a mobile station (See Landais e.g. MS communicating via the network as shown in Fig. 1) sending to the network a packet mode resource request (See packet channel request message to network, Page 4, Lines 1-3 of ¶ [0081]), mobile station using, in accordance with its requirements (See Landais e.g. differing requirements, mobile station, EGPRS, Page 2, ¶ [0029]), one of different types of packet mode resource requests (See e.g. packet mode service, etc., Page 2, ¶ [0032]), (inherently) corresponding to different transfer modes (See Landais e.g. two modes, etc., Page 2, ¶ [0032]) that it supports (See Landais e.g. transfer mode, Page 4, Lines 12-15 of ¶ [0090]), the different transfer modes including the GPRS (General Packet Radio Service) (See Landais e.g. GPRS, Page 1, ¶ [0002]) and EGPRS (Enhanced General Packet Radio Service) mode (See Landais e.g. EGPRS. Page 2, ¶ [0029]) for the requirements of signaling (See Landais e.g. per definition: signaling, mobility management, Page 1, ¶ [0018], one-phase or two-phase access, Page 1, ¶ [0023]) data transfer (See Landais e.g. transfer of data, TBF, Page 1, ¶ [0023]) and / or in uplink direction (See Landais e.g. TBF in request message on uplink, Page 1, ¶ [0024]), the mobile station (See Landais e.g. MS of Fig. 1) using a type of packet set mode resource request (See Landais e.g. packet resource request containing a precise description of the required resource, Page 2, ¶ [0026]) and or in downlink direction (See Landais e.g. downlink, Page 1, ¶ [0025]) corresponding to EGPRS mode (Page 2, GPRS, ¶ [0029], packet mode, two modes, Page 2, ¶ [0032], including cause data specifying signaling data transfer requirements (See Landais e.g. per definition: signaling, mobility management, Page 1, ¶ [0018], one-phase or two-phase access, Page 1, ¶ [0023]) and or in accordance with mobility management protocol (See Landais e.g. mobility management (MM), Page 1, ¶ [0018]) and or (inherently) transmission control protocol (See Landais e.g.

as defined: transfer of data, TBF, transmission direction, Page 1, ¶ [0020]) and or EGPRS packet channel request message (See Landais e.g. EGPRS, Page 2, [0029], packet channel request message, Page 2, ¶ [0041]).

Regarding claims, 8, 23, 34, Landais teaches the signaling data transfer requirements include requirements for transfer of signaling messages (See Landais e.g. per definition: signaling, mobility management, Page 1, ¶ [0018], one-phase or two-phase access, Page 1, ¶ [0023]) in accordance with a mobility management protocol (See Landais e.g. mobility management (MM), Page 1, ¶ [0018]).

Regarding claims 9, 24, 35, Landais teaches signaling messages (See Landais e.g. per definition: signaling, mobility management, Page 1, ¶ [0018], one-phase or two-phase access, Page 1, ¶ [0023]) include a cell update message (inherently) sent in the event of cell reselection during a current user data transfer (See Landais e.g. cell reselection, cell reselection control mode, transfer, Page 2, ¶ [0033]-[0038]).

Regarding claims 10, 25, 36, Landais teaches signal message (inherently) include a paging response (See e.g. the mobile station sends the network a PACKET CHANNEL REQUEST message, as noted at 1, on a common uplink channel (PRACH). The network then responds with a PACKET UPLINK ASSIGNMENT message, as noted at 2, on a common downlink channel (PAGCH or paging), the latter message indicating directly to the mobile station the resources (PDCH) it has been assigned. The mobile station then uses those resources to transmit data (or RLC data blocks), as noted at 3, in the uplink direction, Page 4, ¶ [0077]) message in packet mode prior to a transfer of user data in the downlink direction (See Landais common downlink channel message (response ), Page 1, Lines 1-10 of ¶ [0025]).

Regarding claims, 12, 27, 38-39, Landais discloses a message used to transmit a type of packet mode resource request that corresponds to (GPRS mode) a transfer mode best suited to the requirements of a user data transfer is the EGPRS PACKET CHANNEL REQUEST message (See Landais e.g. EGPRS, Page 2, [0029], packet channel request message, Page 2, ¶ [0041]).

Regarding claims 13, 28, 40, Landais teaches the GPRS PACKET CHANNEL REQUEST MESSAGE (See Landais e.g. EGPRS, Page 2, [0029], packet channel request message, Page 2, ¶

[0041]) includes a cause specifying signaling data transfer requirements (See Landais e.g. per definition: signaling, mobility management, Page1, ¶ [0018], one-phase or two-phase access, Page 1, ¶ [0023]).

***Allowable Subject Matter***

4. Claim 11, 26, 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

With respect to claims 11, 26, 37, the prior art of record fails to disclose singly or in combination to render obvious that the user data transfer includes a transfer of data in accordance with the Transmission Control Protocol (TCP).

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kamran Afshar whose telephone number is (571) 272-7796. The examiner can be reached on Monday-Friday.

If attempts to reach the examiner by the telephone are unsuccessful, the examiner's supervisor, Eng, George can be reached @ (571) 272-7495. The fax number for the organization where this application or proceeding is assigned is 571-273-8300 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**/Kamran Afshar/**

**Primary Examiner, Art Unit 2617**